

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.158 OF 2022

Mallinath Chanavirappa Manure and Anr. ... Petitioners

V/s.

The State of Maharashtra and Anr. ... Respondents

Mr. N.V. Bandiwadekar i/b Mrs. A.N. Bandiwadekar, Advocate for the
Petitioners.

Mr. S.B. Kalel, AGP for the Respondent - State.

Mr. Shrishail Sakhare, Advocate for Respondent No.2.

Digitally signed
by PALLAVI
MAHENDRA
WARGAONKAR
Date:
2022.08.11
20:18:56
+0530

**CORAM : S.V. GANGAPURWALA &
MADHAV J. JAMDAR, JJ.**

DATED : 10th AUGUST 2022

PC. :

1. The proposal seeking approval to the appointment of the Petitioner No.1 to the post of Shikshan Sevak is rejected. The learned counsel for the Petitioners submits that the Petitioner No.2 is a minority institution. Advertisement was issued on 5th December 2018. Selection process was conducted immediately, however, as the post was to fall vacant subsequently, appointment order was issued subsequently. This aspect has not been considered by the Education Officer.

2. The learned counsel for the Education Officer submits that Minority Institution do not have unfettered right to appoint teachers without following due process.

3. There cannot be any dispute that Minority Institution is required to appoint teachers possessing necessary qualification and by issuing advertisement. Exception is only for three employees.

4. The facts which are put forth by the Petitioner that the advertisement was issued and the selection process was conducted immediately as the post was to fall vacant subsequently appointment order is issued subsequently does not appear to have been pleaded before the Education Officer and/or the Education Officer has considered the same.

5. In light of that, the impugned order is quashed and set aside. Education Officer shall reconsider the proposal for approval of the appointment of the Petitioner and consider the facts as has been placed by the Petitioner before the Education Officer.

6. Education Officer shall take decision upon it preferably within 6 months.

7. Writ Petition is disposed of accordingly. No costs.

(MADHAV J. JAMDAR, J)

(S.V. GANGAPURWALA, J)